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PTO/SB/21 (09-04)

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TRANSMITTAL FORM		Application Number	10/564,522
(to be used for all correspondence after initial filing)		Filing Date	Jun 22, 2006
		First Named Inventor	Porma, Mikko
		Art Unit	3654
		Examiner Name	Thomas Brahan
Total Number of Pages in This Submission	18	Attorney Docket Number	0837/0193PUS1

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance communication to (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Muncy, Geissler, Olds & Lowe, PLLC		
Signature			
Printed name	Joe McKinney Muncy		
Date	November 17, 2008	Reg. No.	32334

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Signature			
Typed or printed name	Joe McKinney Muncy	Date	November 17, 2008, Monday

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PTO/SB/17 (10-07)

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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**
For FY 2008☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 540

Complete if Known

Application Number	10/564,522
Filing Date	June 22, 2006
First Named Inventor	Mikko Porma
Examiner Name	Thomas Brahan
Art Unit	3654
Attorney Docket No.	0837/0193PUS1

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: 50-3828 Deposit Account Name: MG-IP

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185
Total Claims		
Extra Claims	Fee (\$)	Fee Paid (\$)

- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$)

- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x		

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief

540

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	32,334	Telephone	703-621-7140
Name (Print/Type)	Joe McKinney Muncy	Date	November 17, 2008		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

:

:

First Named Inventor: Porma, Mikko

: **Confirmation No.** 3457

:

U.S. Patent Application No. 10/564,522

: **Group Art Unit:** 3654

:

Filed: June 22, 2006

: **Examiner:** BRAHAN, Thomas J.

For: METHOD FOR CONTROLLING A CRANE

BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Further to the Notice of Appeal filed September 15, 2008, in connection with the above-identified application on appeal, the Appellant respectfully submits this Brief on Appeal. Please charge any fees or credit any overpayments that may be due with this Brief to Deposit Account No. 50-3828.

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Application No. 10/564,522

Attorney Docket No. 0837/0193PUS1

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I. REAL PARTY IN INTEREST

The real party in interest in this appeal is KCI KONECRANES PLC, Koneenkatu 8, FL-05830 Hyvinkaa, Finland.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals and/or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are a total of 5 claims pending in the instant application, namely claims 1-5. Claim 1 is an independent claim.

B. Status of All the Claims

1. Claims cancelled: none
2. Claims withdrawn from consideration but not cancelled: none
3. Claims pending: 1-5
4. Claims allowed: none
5. Claims rejected: 1-5

C. Claims on Appeal

Claims on appeal are claims 1-5 as rejected by the Final Office Action of June 13, 2008.

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IV. STATUS OF AMENDMENTS

The Amendment filed March 10, 2008 (amending claims 1-5), has been entered by the Final Office Action mailed June 13, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 is directed to a method for controlling a crane (e.g., 1; page 3, lines 29-31; para. [0011]). The method includes giving velocity requests as control sequences (e.g., 10) from a crane control system (e.g., 9) to crane drives (e.g., 11, 12; see FIGS. 2 and 3, page 4, lines 16-19; para. [0014]) and reading and storing the velocity requests (V_{ref}) in a control system (e.g., 9) (e.g., FIGS. 2 and 3; page 4, lines 19-20; para. [0014]), whereby

each velocity request (V_{ref}) is compared with the previous velocity request and, if the velocity request is changed, an acceleration sequence for the corresponding velocity change is formed and stored (e.g., see page 4, lines 19-23; para. [0014]), after which, summing the velocity changes defined by the stored acceleration sequences after a particular time interval and adding the obtained sum (dV) to the previous velocity request to achieve a new velocity request (V_{ref2}), which is set as a new control and velocity request for the crane drives (e.g., 11, 12; see page 4, lines 23-28; para. [0014]), and

performing some of the velocity changes defined by summed acceleration sequences at a definition time of each selected sequence on each control step and performing the rest of them as delayed (e.g., see page 4, lines 28-30; para. [0014]),

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reading and summing the stored sequence parts to be performed as delayed on a plurality of program rounds (e.g., see page 5, lines 5-13; para. [0015]).

Claim 2 is directed to a method as claimed in claim 1, wherein reading and summing stored sequence parts to be performed as delayed at a time interval which is many times longer than said control step (e.g., see page 4, lines 35-36; page 5, lines 1-2; para. [0015]).

Claim 3 is directed to a method as claimed in claim 1, wherein reading and summation interval of stored sequence parts to be performed can vary (e.g., see page 6, line 9; para. [0019]).

Claim 4 is directed to a method as claimed in claim 1, wherein storing parts of the sequences to be performed as delayed in a two-element table, wherein a velocity change is defined in the first element and time (e.g., T), after which the velocity change or changes to be performed as delayed is/are added to the velocity request, is defined in the second element (e.g., see page 4, lines 35-36; page 5, lines 1-2; para. [0015]).

Claim 5 is directed to a method as claimed in claim 1, wherein restricting the change of velocity actual value so that with respect to the previous change, the change can be, at most, such a velocity change to be calculated with a used control step that equals to set maximum value for acceleration or deceleration at most (e.g., see page 5, lines 14-31; para. [0016]–[0017]).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner has finally rejected [i] claims 1-5 under 35 U.S.C. 112, 2nd paragraph for allegedly being indefinite for failing to particularly point out and distinctly claim the subject

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matter which Applicant regards as the invention, and [ii] claims 1-4 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,529,193 ("Hytonen").

VII. ARGUMENT

Below, the Appellant has provided arguments related with section headers in **bold**.

A. **The 35 U.S.C. 112, 2nd Paragraph, Rejection of Claims 1-5**

Regarding the 35 U.S.C. §112, second paragraph rejection of claims 1-5, Appellant respectfully submits that claims 1-5 particularly point out and distinctly claim the subject matter which applicant regards as the invention.

35 U.S.C. § 112, second paragraph, states that the specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. There are two separate requirements set forth in this paragraph: (A) the claims must set forth the subject matter that applicants regard as their invention; and (B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant. The first requirement is a subjective one because it is dependent on what the applicants for a patent regard as their invention. The second requirement is an objective one because it is not dependent on the views of applicant or any particular individual, but is evaluated in the context of whether the claim is definite - i.e., whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art.¹

¹ See M.P.E.P. § 2171.

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With respect to independent claim 1, Appellant respectfully submits that the scope of the claim would be clear to a hypothetical person possessing the ordinary level of skill in the pertinent art.

For example, independent claim 1 recites “giving velocity requests as control sequences from a crane control system to crane drives and reading and storing the velocity requests (V_{ref}) in a control system.” That is, this recitation of claim 1 is directed a plurality of velocity requests as control sequences. Claim 1 further recites the features of each velocity request (i.e., in the singular). Particularly, claim 1 recites “whereby each velocity request (V_{ref}) is compared with the previous velocity request and, if the velocity request is changed, an acceleration sequence for the corresponding velocity change is formed and stored, after which, summing the velocity changes defined by the stored acceleration sequences after a particular time interval and adding the obtained sum (dV) to the previous velocity request to achieve a new velocity request (V_{ref2}), which is set as a new control and velocity request for the crane drives.”

Appellants respectfully submit that it would be clear to a hypothetical person possessing the ordinary level of skill in the pertinent art that the recitations of claim 1 merely are referring to each of the plurality of claim elements that are previously recited in the claim. Hence, the scope of claim 1 would be clear to a hypothetical person possessing the ordinary level of skill in the pertinent art.

With respect to dependent claims 2-5, Appellants respectfully submit that the features of claims 2-5 also would be clear to a hypothetical person possessing the ordinary level of skill in the pertinent art.

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For example, claim 1 from which claim 2 depends recites (1) “performing some of the velocity changes defined by summed acceleration sequences at a definition time of each selected sequence on each control step and [2] performing the rest of them as delayed, reading and summing the stored sequence parts to be performed as delayed on a plurality of program rounds.” Claim 2 clearly is referring to the claim element of “reading and summing the stored sequence parts to be performed as delayed”. Claim 2 does not refer to the velocity change. Hence, the scope of claim 2 would be clear to a hypothetical person possessing the ordinary level of skill in the pertinent art.

Somewhat similarly, Appellants respectfully submit that claim 4 clearly is referring to the claim element of “the velocity change or changes to be performed as delayed.” Hence, the scope of claim 4 would be clear to a hypothetical person possessing the ordinary level of skill in the pertinent art.

Claims 3 and 5 would be clear to a hypothetical person possessing the ordinary level of skill in the pertinent art for similar reasons.

In view of the above remarks, Appellant respectfully submits that claims 1-5 particularly point out and distinctly claim the subject matter which applicant regards as the invention. Appellant respectfully requests that the Appeals Board withdraw this rejection.

B. The 35 U.S.C. 103(a) Rejection of Claims 1-4 based on Hytonen

Turning to the 35 U.S.C. § 103(a) rejection based on Hytonen, Appellant respectfully submits that Hytonen fails to disclose or suggest at least “performing some of the velocity changes defined by summed acceleration sequences at a definition time of each selected sequence on each control step and performing the rest of them as delayed, reading and

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summing the stored sequence parts to be performed as delayed on a plurality of program rounds” as recited in independent claim 1.

Appellant respectfully submits that independent claim 1 should be in condition for allowance. The present invention discloses a method where all stored sequence parts (delayed or not) are performed in one and only program round. In the invention, these sequence parts can be divided or performed on several program rounds as defined in the last paragraph of claim 1. This is not obvious nor disclosed by Hytonen. The present application discussed on page 4, paragraph [0014], a short description of the old method, whereas the following paragraphs [0015] discloses features of the invention, for example. Appellant respectfully submits that the claimed method for controlling a crane is different from the utilized prior art.

Particularly, Appellant respectfully submits that Hytonen fails to disclose or suggest at least “performing some of the velocity changes defined by summed acceleration sequences at a definition time of each selected sequence on each control step and performing the rest of them as delayed, reading and summing the stored sequence parts to be performed as delayed on a plurality of program rounds” as recited in independent claim 1. As such, the 35 U.S.C. § 103 rejection of claims 1-4 should now be reconsidered and withdrawn.

In view of the above remarks, it is respectfully submitted that claim 1 is distinguishable over the applied art of Hytonen. The remaining dependent claims 2-5 are allowable at least by virtue of their dependency on the above-identified independent claim.²

For at least the reasons presented above, Appellant respectfully requests that the Board withdraw this art grounds of rejection, and further requests issuance for the present application at least for the reasons expressed above.

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VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Claims Appendix.

IX. EVIDENCE

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the Examiner is being submitted.

X. RELATED PROCEEDINGS

No related proceedings are referenced in Section II, above.

² See MPEP § 2143.01.

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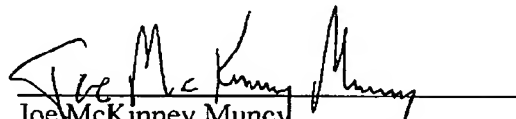
XI. CONCLUSION

The Appellant respectfully submits that claims 1-5 are patentable over the applied art and that all of the rejections and objections of record should be reversed.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3828 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Date: Monday, November 17, 2008

Respectfully Submitted,


Joe McKinney Muncy
Attorney/Agent for Applicants
Reg. No. 32334

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CLAIMS APPENDIX

1. (Previously presented) A method for controlling a crane, the method comprising giving velocity requests as control sequences from a crane control system to crane drives and reading and storing the velocity requests (V_{ref}) in a control system, whereby

each velocity request (V_{ref}) is compared with the previous velocity request and, if the velocity request is changed, an acceleration sequence for the corresponding velocity change is formed and stored, after which,

summing the velocity changes defined by the stored acceleration sequences after a particular time interval and adding the obtained sum (dV) to the previous velocity request to achieve a new velocity request (V_{ref2}), which is set as a new control and velocity request for the crane drives, and

performing some of the velocity changes defined by summed acceleration sequences at a definition time of each selected sequence on each control step and performing the rest of them as delayed,
reading and summing the stored sequence parts to be performed as delayed on a plurality of program rounds.

2. (Previously presented) The method as claimed in claim 1, wherein reading and summing stored sequence parts to be performed as delayed at a time interval which is many times longer than said control step.

3. (Previously presented) The method as claimed in claim 1, wherein reading and summation interval of stored sequence parts to be performed can vary.

4. (Previously presented) The method as claimed in claim 1, wherein storing parts of the sequences to be performed as delayed in a two-element table, wherein a velocity change is defined in the first element and time, after which the velocity change or changes to be performed as delayed is/are added to the velocity request, is defined in the second element.

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5. (Previously presented) The method as claimed in claim 1, wherein restricting the change of velocity actual value so that with respect to the previous change, the change can be, at most, such a velocity change to be calculated with a used control step that equals to set maximum value for acceleration or deceleration at most.

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EVIDENCE APPENDIX

(None)

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RELATED PROCEEDINGS APPENDIX

(None)